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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING THE DEFINITION OF LICENSED PREMISES IN THE LIQUOR
CONTROL ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,
Chapter 39, Section 3, as amended) is amended to read:

"60-3A-3. DEFINITIONS.--As used in the Liquor Control
Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin
and aromatic bitters bearing the federal internal revenue
strip stamps or any similar alcoholic beverage, including
blended or fermented beverages, dilutions or mixtures of one
or more of the foregoing containing more than one-half
percent alcohol, but excluding medicinal bitters;

B. "beer" means an alcoholic beverage obtained by
the fermentation of any infusion or decoction of barley, malt
and hops or other cereals in water, and includes porter,
beer, ale and stout;

C. "brewer" means a person who owns or operates a
business for the manufacture of beer;

D. "club" means:

(1) any nonprofit group, including an

1 auxiliary or subsidiary group, organized and operated under
2 the laws of this state, with a membership of not less than
3 fifty members who pay membership dues at the rate of not less
4 than five dollars (\$5.00) per year and who, under the
5 constitution and bylaws of the club, have all voting rights
6 and full membership privileges, and which group is the owner,
7 lessee or occupant of premises used exclusively for club
8 purposes and which group the director finds:

9 (a) is operated solely for recreation,
10 social, patriotic, political, benevolent or athletic
11 purposes; and

12 (b) has been granted an exemption by
13 the United States from the payment of the federal income tax
14 as a club under the provisions of Section 501(a) of the
15 Internal Revenue Code of 1986, as amended, or, if the
16 applicant has not operated as a club for a sufficient time to
17 be eligible for the income tax exemption, it must execute and
18 file with the director a sworn letter of intent declaring
19 that it will, in good faith, apply for such exemption as soon
20 as it is eligible; or

21 (2) an airline passenger membership club
22 operated by an air common carrier that maintains or operates
23 a clubroom at an international airport terminal. For the
24 purposes of this paragraph, "air common carrier" means a
25 person engaged in regularly scheduled air transportation

1 between fixed termini under a certificate of public
2 convenience and necessity issued by the civil aeronautics
3 board;

4 E. "commission" means the secretary of public
5 safety when the term is used in reference to the enforcement
6 and investigatory provisions of the Liquor Control Act and
7 means the superintendent of regulation and licensing when the
8 term is used in reference to the licensing provisions of the
9 Liquor Control Act;

10 F. "department" means the special investigations
11 division of the department of public safety when the term is
12 used in reference to the enforcement and investigatory
13 provisions of the Liquor Control Act and means the director
14 of the alcohol and gaming division of the regulation and
15 licensing department when the term is used in reference to
16 the licensing provisions of the Liquor Control Act;

17 G. "director" means the director of the special
18 investigations division of the department of public safety
19 when the term is used in reference to the enforcement and
20 investigatory provisions of the Liquor Control Act and means
21 the director of the alcohol and gaming division of the
22 regulation and licensing department when the term is used in
23 reference to the licensing provisions of the Liquor Control
24 Act;

25 H. "dispenser" means a person licensed under the

1 provisions of the Liquor Control Act selling, offering for
2 sale or having in his possession with the intent to sell
3 alcoholic beverages both by the drink for consumption on the
4 licensed premises and in unbroken packages for consumption
5 and not for resale off the licensed premises;

6 I. "distiller" means a person engaged in
7 manufacturing spirituous liquors;

8 J. "golf course" means a tract of land and
9 facilities used for playing golf and other recreational
10 activities that includes tees, fairways, greens, hazards,
11 putting greens, driving ranges, recreational facilities,
12 patios, pro shops, cart paths and public and private roads
13 that are located within the tract of land;

14 K. "governing body" means the board of county
15 commissioners of a county or the city council or city
16 commissioners of a municipality;

17 L. "hotel" means an establishment or complex
18 having a resident of New Mexico as a proprietor or manager
19 and where, in consideration of payment, meals and lodging are
20 regularly furnished to the general public. The establishment
21 or complex must maintain for the use of its guests a minimum
22 of twenty-five sleeping rooms;

23 M. "licensed premises" means the contiguous areas
24 or areas connected by indoor passageways of a structure and
25 the outside dining, recreation and lounge areas of the

1 structure that are under the direct control of the licensee
2 and from which the licensee is authorized to sell, serve or
3 allow the consumption of alcoholic beverages under the
4 provisions of its license; provided that in the case of a
5 restaurant, including a restaurant that has operated
6 continuously in two separate structures since July 1, 1987
7 and that is located in a local option district that has voted
8 to disapprove the transfer of liquor licenses into that local
9 option district, hotel, golf course or racetrack, "licensed
10 premises" includes all public and private rooms, facilities
11 and areas in which alcoholic beverages are sold or served in
12 the customary operating procedures of the restaurant, hotel,
13 golf course or racetrack;

14 N. "local option district" means a county that has
15 voted to approve the sale, serving or public consumption of
16 alcoholic beverages, or any incorporated municipality that
17 falls within a county that has voted to approve the sale,
18 serving or public consumption of alcoholic beverages, or any
19 incorporated municipality of over five thousand population
20 that has independently voted to approve the sale, serving or
21 public consumption of alcoholic beverages under the terms of
22 the Liquor Control Act or any former act;

23 O. "manufacturer" means a distiller, rectifier,
24 brewer or winer;

25 P. "minor" means a person under twenty-one years

1 of age;

2 Q. "package" means an immediate container of
3 alcoholic beverages that is filled or packed by a
4 manufacturer or wine bottler for sale by the manufacturer or
5 wine bottler to wholesalers;

6 R. "person" means an individual, corporation,
7 firm, partnership, copartnership, association or other legal
8 entity;

9 S. "rectifier" means a person who blends, mixes or
10 distills alcohol with other liquids or substances for the
11 purpose of making an alcoholic beverage for the purpose of
12 sale other than to the consumer by the drink, and includes
13 all bottlers of spirituous liquors;

14 T. "restaurant" means an establishment having a
15 New Mexico resident as a proprietor or manager that is held
16 out to the public as a place where meals are prepared and
17 served primarily for on-premises consumption to the general
18 public in consideration of payment and that has a dining
19 room, a kitchen and the employees necessary for preparing,
20 cooking and serving meals; provided that "restaurant" does
21 not include establishments as defined in rules promulgated by
22 the director serving only hamburgers, sandwiches, salads and
23 other fast foods;

24 U. "retailer" means a person licensed under the
25 provisions of the Liquor Control Act selling, offering for

1 sale or having in his possession with the intent to sell
2 alcoholic beverages in unbroken packages for consumption and
3 not for resale off the licensed premises;

4 V. "spirituous liquors" means alcoholic beverages
5 as defined in Subsection A of this section except fermented
6 beverages such as wine, beer and ale;

7 W. "wholesaler" means a person whose place of
8 business is located in New Mexico and who sells, offers for
9 sale or possesses for the purpose of sale any alcoholic
10 beverages for resale by the purchaser;

11 X. "wine" includes the words "fruit juices" and
12 means alcoholic beverages obtained by the fermentation of the
13 natural sugar contained in fruit or other agricultural
14 products, with or without the addition of sugar or other
15 products, that do not contain less than one-half percent nor
16 more than twenty-one percent alcohol by volume;

17 Y. "wine bottler" means a New Mexico wholesaler
18 who is licensed to sell wine at wholesale for resale only and
19 who buys wine in bulk and bottles it for wholesale resale;

20 Z. "winegrower" means a person who owns or
21 operates a business for the manufacture of wine; and

22 AA. "winer" means a winegrower."

23 Section 2. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect
25 immediately.